

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
NEWNAN DIVISION

In Re:	)	Chapter 11
	)	
TRIAD AT LAGRANGE I, LLC,	)	CASE NO. 09-13383-WHD
TRIAD AT JEFFERSON I, LLC,	)	CASE NO. 09-13384-WHD
TRIAD AT LUMBER CITY I, LLC,	)	CASE NO. 09-13385-WHD
TRIAD AT POWDER SPRINGS I, LLC,	)	CASE NO. 09-13386-WHD
TRIAD AT THOMASVILLE I, LLC	)	CASE NO. 09-13387-WHD
	)	
Debtors.	)	(Jointly Administered under
	)	CASE NO. 09-13383-WHD)
	)	

---

**MOTION FOR ALLOWANCE AND PAYMENT OF  
ADMINISTRATIVE EXPENSES UNDER 11 U.S.C. § 503(b)(9)**

PharMerica Corporation (“PharMerica”), by its undersigned counsel, hereby moves this Court for an order pursuant to 11 U.S.C. § 503(b)(9) for an order (i) allowing PharMerica’s administrative expense claim, and (ii) directing the above-captioned debtors (the “Debtors”) to pay PharMerica’s administrative expense claim (the “Motion”) as set forth herein. In support of the Motion, PharMerica states as follows:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and 11 U.S.C. § 503. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (B) and (E).

**BACKGROUND**

2. On September 22, 2009 (the “Petition Date”), the Debtors filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code §§ 101, *et seq.* (the “Bankruptcy Code”). The Debtors have continued in the operation of their business and

possession of their assets as a debtors-in-possession pursuant to §§ 1107 and 1108 of the Bankruptcy Code.

3. On October 15, 2009, the Office of the United States Trustee appointed an Official Committee of Unsecured Creditors (the “Committee”) in this case. No trustee or examiner has been appointed in this case.

4. PharMerica is a corporation which supplies prescription and non-prescription drugs and other medical supplies pursuant to purchase orders submitted by clients.

5. PharMerica supplied such products to the Debtors in the ordinary course of business prior to the Petition Date. Products worth \$60,260.08 were received by the Debtors during the 20 days prior to the Petition Date, at a time when the Debtors were insolvent, and for which PharMerica has not been paid (the “Administrative Expense Goods”).

6. Upon information and belief, the Debtors used the Administrative Expense Goods in the ordinary course of business.

7. Upon information and belief, the Debtors continue to operate business in the post-petition period, and have generated revenue by using and selling the Administrative Expense Goods in connection with its business.

8. Despite generating post-petition revenue, the Debtors have not paid for the Administrative Expense Goods.

9. By this Motion, PharMerica requests that this Court enter an Order allowing its administrative expense claim totaling \$60,260.08 (“Administrative Expense Claim”) and immediately, or as soon thereafter as practicable, pay the Administrative Expense Claim to PharMerica.

## GROUND FOR RELIEF

10. Section 503(b)(9) of the Bankruptcy Code provides that:

After notice and a hearing, there shall be allowed, administrative expenses, other than claims allowed under § 502(f) of this title, including . . . the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of business.

11 U.S.C. § 503(b)(9). Pursuant to §§ 507(a)(2) and 503(b)(9), PharMerica's claim for delivery of the Administrative Expense Claim to the Debtors in the ordinary course of business within 20 days before the Petition Date is entitled to administrative priority.

11. This Court may compel the Debtors to make immediate payment on PharMerica's administrative priority claim. *See In re Austin*, 1994 WL 245224 at 1 (Bankr. S.D. Ga. Feb. 8, 1994) ("the time of payment of . . . administrative expenses . . . is entirely within the discretion of the bankruptcy court"); *In re Dakota Indus., Inc.*, 31 B.R. 23, 26 (D.S.D. 1983) ("There is no restriction on the debtor's paying administrative claims prior to confirmation of the plan in a Chapter 11 case. . ."); *In re Isis Foods, Inc.*, 27 B.R. 156, 157-58 (W.D. Mo. 1982) (Court affirmed bankruptcy court's order that debtor make immediate payment on administrative expense claims).

12. In this case, PharMerica believes that immediate payment by the Debtors of the Administrative Expense Claim is appropriate. Section 503(b)(9) helps troubled companies continue their operations by assuring suppliers that they will be paid quickly and in full in the event of bankruptcy.

13. The value of the Administrative Expense Goods totals \$60,260.08, which goods upon information and belief, were delivered and have been used in the ordinary course of the Debtors' business operations.

## CONCLUSION

**WHEREFORE**, PharMerica respectfully requests that this Court enter an order allowing PharMerica's Administrative Expense Claim as set forth herein, (ii) directing the Debtors to immediately pay PharMerica on account of its Administrative Expense Claim, and (iii) granting such other and further relief as this Court deems appropriate.

Dated: November 6, 2009

/s/ Paul G. Durdaller  
Paul G. Durdaller (Ga. Bar No. 234890)  
Valerie K. Richmond (Ga. Bar No. 142188)  
TAYLOR ENGLISH DUMA, LLP  
1600 Parkwood Circle, Suite 400  
Atlanta, Georgia 30339  
Phone: (770) 434-6868  
Fax: (770) 434-7376  
[Pdurdaller@talorenglish.com](mailto:Pdurdaller@talorenglish.com)

and

Robert M. Hirsh  
ARENT FOX LLP  
1675 Broadway  
New York, NY 10019  
Phone: (212) 484-3900

Counsel for PharMerica Corporation

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of PharMerica Corporation's **MOTION FOR ALLOWANCE AND PAYMENT OF ADMINISTRATIVE EXPENSES UNDER 11 U.S.C. § 503(b)(9)**, was served on all Registered Users by service of a notice of electronic filing in accordance with the Electronic Case Filing Procedures; and upon each of the parties listed below via first class mail, postage prepaid, to ensure delivery:

Gregory D. Ellis Lamberth, Cifelli, Stokes, Ellis & Nason, PA 3343 Peachtree Road, NE Suite 550 Atlanta, GA 30326	Our Family, LLC Attn: Natysa Wright, 423 Haverhill Lane Jonesboro, GA 30236	Stanley Senior Technologies Attn: Tiffani Hix 1550 N. 20 <sup>th</sup> Circle Lincoln, NE 68503
Triad at Jeffersonville, I, LLC 10 Roswell Street Suite 210 Alpharetta, GA 30009	Triad at Powder Springs I, LLC 10 Roswell Street Suite 210 Alpharetta, GA 30009	Capital Finance, LLC 1422 Clarkview Toad Baltimore, MD 21209
Gallagher Evelius & Jones 218 North Charles Street Suite 400 Baltimore, MD 21201	Joshua E. Kight, Esq. Kight & Harper, LLC 108 S. Jefferson Street Dublin, GA 31021	Telerent Leasing Corporation 4191 Fayetteville Road Raleigh, NC 27603
Eduracare Therapy Management, Inc. c/o Bill Rothschild Ellengert, Ogier, Rothschild & Rosenfeld 170 Mitchell Street Atlanta, GA 30303	Sysco Food Service of Atlanta, LLC Attn: Willie Coleman, CFO P.O. Box 490379 College Park, GA 30349	Triad of LaGrange I, LLC 10 Roswell Street Suite 210 Alpharetta, GA 30009
Daniel A. Caldwell U. S. Attorney's Office 600 Russell Federal Bldg 75 Spring Street, SW Atlanta, GA 30303	Direct Supply, Inc. Attn: Kurt Polacek 6767 N. Industrial Road Milwaukee, WI 53223	Georgia Dept. of Revenue Bankruptcy Section P.O. Box 161108 Atlanta, GA 30321
Office of the U.S. Trustee 75 Spring Street, S.W. 362 Russell Federal Bldg. Atlanta, GA 30303	Textron Financial Corporation 4949 SW Meadows Road #500 Lake Oswego, OR 97035	Edurance Therapy Management, Inc. Attn: Thomas P. Dixon, President 1 Forest Park Drive, 2 <sup>nd</sup> Floor Farmington, CT 06032

Official Committee of Unsecured Creditors c/o J. Robert Williamson 1500 Candler Bldg. 127 Peachtree Street, NE Atlanta, GA 30303	Professional Medical & Surgical Supply, Inc. Alan Ferry, Jr., GM & COO 1917 Garnet Court New Lenox, IL 60451	Sysco Foods Services of Atlanta, LLC Arnall Golden Gregory, LLP c/o Darryl S. Laddin 171 17 <sup>th</sup> Street, NW Suite 2100 Atlanta, GA 30363
Triad at Lumber City I, LLC 10 Roswell Street Suite 210 Alpharetta, GA 30009	Newnan Division 18 Greenville Street P.O. Box 2328 Newnan, GA 30264	Edurance Therapy Management Attn: Tom Mack, COO 2950 S. Rainbow Blvd. Ste. 22 Las Vegas, NV 89146
IRS Centralized Insolvency Operations P.O. Box 21126 Philadelphia, PA 19114	Staples, Inc. Attn: Bryan Manniein 555 W. 112 <sup>th</sup> Ave. Northglenn, CO 80234	Troup County tax Commissioner Attn: Gary S. Wood 100 Ridley Avenue Lagrange, GA 30240
US Express Leasing, Inc 10 Waterview Blvd. Parsippany, NJ 07054	Vocollect Healthcare Systems 701 Rodi Road Pittsburg, PA 15235	Adrienne P. Ashby Ashby & Polk, LLC 191 Peachtree Street, NE Suite 3300 Atlanta, GA 30303
William M. Foster Theodore N. Stapleton, P.C. Suite 2-1740 2727 Paces Ferry Road Atlanta, GA 30339	Steven E. Fox Wendy G. Marcari Epstein Becker & Green, PC 250 Park Avenue New York, NY 10177-1211	Wendy L. Hagenau Bryan Cave Powell Goldstein, LLP One Atlanta, Center – 14 Floor 1201 West Peachtree Street, NW Atlanta, GA 30309-3488
		Annette Kerlin McBrayer Brett J. Nizzo Epstein Becker & Green, P.C. Suite 2700 945 East Paces Ferry Road Atlanta, GA 30326

This 6<sup>th</sup> day of November, 2009

/s/ Paul G. Durdaller

Paul G. Durdaller (Ga. Bar No. 234890)

Valerie K. Richmond (Ga. Bar No. 142188)

TAYLOR ENGLISH DUMA, LLP

1600 Parkwood Circle, Suite 400

Atlanta, Georgia 30339

Phone: (770) 434-6868

Fax: (770) 434-7376

[Pdurdaller@talorenglish.com](mailto:Pdurdaller@talorenglish.com)